IN THE HIGH COURT OF JUDICATURE AT PATNA
MA No.398 of 2004
BIMAL KUMAR JHUNJHUNWALA
Versus
UNION OF INDIA

09/ 11.07.2008 This is an appeal filed against the order dated 29.06.2004 passed by the Presiding Officer, Railway Claims Tribunal, Patna Bench, in Railway Claims No. O.C. 270/2000 whereby and whereunder claim of the appellant/applicant B.K. Jhunjhunwala, owner- Sri Gopal Stores, Gurhatta chowk, Bhagalpur, has been allowed in part.

Heard Sri Krishna Mohan Murari learned counsel for the appellant/applicant.

Nobody appears for the respondent through General Manager, Eastern Railway, Kolkata, although, notice seems to have been validly served on the Union of India-respondent.

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It has been submitted that three claim cases were filed on behalf of the same appellant bearing nos. O.C. 270 of 2000, O.C. 271 of 2008 and O.C. 272 of 2000 and all the cases were disposed of by a common order. Appellant has no grievance in respect of disposal of O.C. Nos. 271 of 2000 and 272 of 2000 respectively.

As per case of the appellant, consignment of 996 bags of iodized salt bearing R.R. No.s 692486, 692479, 692480 dated 4/6.6.1997 were booked from Bhawnagar for Bhagalpur being transported by the Indian Railway.

Aforesaid goods reached Bhagalpur Junction through aforesaid numbers. But, in all 49 bags of iodised salt were found short

and accordingly, compensation of Rs. 1470/- @ Rs. 30 per bag being price of the iodised salt of 49 bags were paid by the Railway Tribunal to the appellant.

The grievance of the appellant is that besides short delivery of aforesaid consignment, damaged bags of salt were also delivered and for the aforesaid three consignments, 256, 134 and 198 damaged bags of iodised salt were found damaged and so out of 996 bags each, there was delivery of 996-256=740, 996-134= 862 and 996-198=798 bags of iodised salt were delivered in good condition to the appellant. So, appellants are entitled for damages @ 30 per bag for the aforesaid damaged bag of consignments. The damaged bags of consignments which are 256+134+198 bags containing 75 kgs of salt comes to 441 quintals, i.e. 588 bags so, its damage would be to the tune of Rs. 588 x 30 = 17,640/-.

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Next contention has been advanced that appellant has not been awarded any compensation so far the freight charge being paid by the appellant to the railway for the damaged bags was concerned Indian railway was paid Rs. 41.53 per quintal by way of freight and so in this way it comes to 441 quintals. For the amount of such damage caused in the way, the appellant is entitled for the price of damaged bags of salt as also the freight charge i.e. Rs. 18,314=73/- i.e. Rs. 18,315/- paid by him for the aforesaid freights.

Since all such documents are said to have been produced before the Tribunal but no due consideration of such claim in right perspective has been given, so appellant is entitled also for aforesaid

amount by way of damage.

The learned counsel has also submitted that appellant is also entitled for realisation of interest on the amount for which he is entitled as such loss was sustained due to negligence on the part of the Railways as it resulted in his business loss. The applicant/appellant is also, thus, entitled for interest @ 9% S.I. per annum from the date of filing of this case i.e. 31.3.2000 till now.

The order of the Claims Tribunal is hereby set aside and this appeal is allowed.

Sanjeet **(Subash Chandra Jha, J.)**

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